

WILLMAR CITY COUNCIL PROCEEDINGS
COUNCIL CHAMBERS
WILLMAR MUNICIPAL UTILITIES BUILDING
WILLMAR, MINNESOTA

August 15, 2005
7:00 p.m.

The regular meeting of the Willmar City Council was called to order by the Honorable Mayor Lester Heitke. Members present on a roll call were Mayor Heitke, Council Members Ron Christianson, Bruce DeBlieck, Denis Anderson, Cindy Swenson, Rick Fagerlie, Jim Dokken, and Steven Gardner; Present 8, Absent 1 - Doug Reese was excused from the meeting.

Also present were City Administrator Michael Schmit, Police Chief Jim Kulset, Fire Chief Marv Calvin, Public Works Director Mel Odens, Finance Director Steven Okins, Planning and Development Services Director Bruce Peterson, Community Education and Recreation Director Steve Brisendine, and City Clerk Kevin Halliday.

The Council requested that the Planning Commission Minutes be removed from the Consent Agenda.

Council Member Christianson offered a motion adopting the Consent Agenda which included the following: City Council Minutes of August 1, Municipal Utilities Commission Minutes of July 25, Rice Hospital Board Minutes of August 3, Building Inspection Report for July, Housing and Redevelopment Authority Board Minutes of July 12, and Airport Commission Minutes of August 2, 2005. Council Member Fagerlie seconded the motion, which carried.

The Council discussed Planning Commission items regarding the Fourth Addition to Boulder Point Preliminary Plat and Fourth Addition to Boulder Point Planned Unit Development Conditional Use Permit. The Planning Commission Minutes of August 10, 2005, were approved as presented upon motion by Council Member Dokken, seconded by Council Member Gardner, and carried.

At 7:05 p.m. Mayor Heitke opened a hearing to consider a street vacation of Monongalia Avenue Southeast. Planning and Development Services Director Peterson informed the Mayor and Council that this portion of Monongalia Avenue Southeast was never built and thought long ago to be vacated. It was noted the Planning Commission has approved the vacation. Emily Bowers and Ed Gander were present to clarify issues on the proposed street vacation. Mayor Heitke closing the hearing at 7:07 p.m.

Following discussion, Resolution No. 1 was introduced by Council Member Christianson, seconded by Council Member Anderson, read by Mayor Heitke, and approved on a roll call vote of Ayes 5, Noes 2 – Council Members Dokken and Fagerlie voted “No.”

RESOLUTION NO. 1

VACATING A PORTION OF A PUBLIC STREET

WHEREAS, the vacation of that portion of the dedicated street as described below was initiated by the City of said street: that portion of Monongalia Ave. SW lying southerly of Block 13 of Spicer's Addition to Willmar, Northerly of Block 3 of Erickson's Addition to Willmar and westerly of the west line of Third Street east, all in the North ½ of Section 14, Township 119, Range 35.

WHEREAS, the proposed vacation has been approved by the Planning Commission of the

City of Willmar; and

WHEREAS, published notice and mailed notice of the proposed vacation and the hearing thereon have been given as provided by Subdivision 6 of Section 9.01 of Article IX of the Willmar City Charter; and

WHEREAS, a hearing was duly held on the proposal to vacate that portion of said street on August 15, 2005; and

WHEREAS, the City Council of Willmar finds that it is in the best interests of the City of Willmar to vacate that portion of said street;

NOW, THEREFORE, BE IT RESOLVED, that the above described portion of dedicated street be, and hereby is, vacated.

BE IT FURTHER RESOLVED that a certified copy of the Resolution be filed with the Kandiyohi County Recorder on or after August 22, 2005.

Dated this 15th day of August, 2005.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Mayor Heitke acknowledged that no one had signed up to address the City Council during its scheduled Open Forum.

Steve Renquist, Executive Director of the City/County Economic Development Commission, appeared before the Mayor and Council to seek approval of the Willmar Regional Treatment Center Master Plan and Re-use Study. Mr. Renquist presented the Plan and was asking the Council to pass a resolution approved the Plan. Following discussion of job creation and existing program protection clauses, Resolution No. 2 was introduced by Council Member Dokken, seconded by Council Member Anderson, read by Mayor Heitke, and carried on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 2

BE IT RESOLVED by the Willmar City Council that the Willmar Regional Treatment Center reuse plan involving the sale of land to Nova-Tech, Epitopix and Kandiyohi County is hereby approved.

Dated this 15th day of August, 2005.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

The Finance Committee Report for August 8, 2005, was presented to the Mayor and Council by Council Member Anderson. There were eight items for Council consideration.

Item No. 1 The Committee reviewed annual reports required to be filed by the Willmar Fire Relief Association. The reports indicated the Association's assets would presently be able to fund retirement liabilities calculated on \$3,300 per year of service. Currently the level of service is at \$2,900 with a City commitment level of \$2,400. No action was being requested by the Association, so this matter was received for information only.

Item No. 2 Representatives from Liquor Mart and West Side Liquor came before the Committee to explain measures being taken to comply with Municipal Code Sec. 3-10 (minimum penalties for violations of state or city ordinances resulting from the sale of alcoholic beverages). After testimony was received, no action was necessary and this matter was received for information only.

Item No. 3 Rice Hospital CEO Lawrence Massa and CFO Leroy Meyering appeared before the Committee to explain a new capitalized lease to replace the MRI equipment. The lease will reduce the annual costs to the Hospital and appropriate action will appear in the Hospital Board minutes. This matter was for information only.

Item No. 4 The Committee reviewed a list of properties that have not paid billings for weed and grass mowing. Pursuant to Municipal Code, Chapter 9, Article III concerning the cutting of weeds or grass and in the case of noncompliance, such work is to be performed by the City or its agent. The costs thereof can be certified as a special assessment against the property in question.

The Committee was recommending the set a public hearing for 7:03 p.m. on September 6, 2005, to consider objections to the proposed assessment for the mowing costs incurred. Council Member Anderson moved to approve the recommendation of the Finance Committee with Council Member Gardner seconding the motion, which carried.

Item No. 5 The Committee reviewed copies of Senate File 106 from the 2005 Special Session which authorizes the City of Willmar to implement a .5 percent local option sales and use tax. The process requires the City to introduce an ordinance and hold a public hearing. The Committee was recommending the Council introduce an ordinance and set a public hearing.

Council Member Anderson offered a motion to introduce an Ordinance Adopting a Sales and Use Tax and a Motor Vehicle Excise Tax for the City of Willmar and to set a public hearing for September 6, 2005, at 7:05 p.m. Council Member Dokken seconded the motion, which carried.

Item No. 6 The Committee reviewed a letter from Center Point Energy requesting any information available on the City's intent to implement a gas utility franchise fee prior to November 1, 2006. The Committee briefly reviewed this matter and how any franchise fee might be incorporated into the 2006 budget discussion including the possibility of dedicating any fee revenues to the street reconstruction program. It was the consensus of Committee Members to discuss this matter with the full Council on August 15, 2005.

The Council discussed protecting the option to have a gas franchise revenue option in 2006 or increasing ad valorem taxes. Following discussion, Council Member Anderson moved to direct the City Administrator to inform CenterPoint Energy that the City may consider a gas franchise fee in the near future, with Council Member Gardner seconding the motion which failed on a roll call vote of Ayes 3, Noes 4 – Council Member Christianson, Swenson, Dokken and Fagerlie.

Item No. 7 The Committee reviewed the June Rice Hospital, M.U.C. and Community Foundation Reports. This matter was for information only.

Item No. 8 The Committee was reminded that future agendas will include discussion of the City's Assessment Policy and the 2006 budget. This matter was for information only.

The Finance Committee Report for August 8, 2005, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Anderson, seconded by Council Member Fagerlie, and carried.

The Public Works/Safety Committee Report of August 10, 2005, was presented to the Mayor and Council by Council Member Christianson. There were seven items for Council consideration.

Item No. 1 Sam Lahanis of Donohue and Associates was present to review the second Monthly Report and Summary of Activities for Program Management and Planning Services for the Wastewater Treatment and Conveyance Systems. Mr. Lahanis outlined the tasks completed or in progress through July 16, 2005. A summary sheet of activities was made available, as well as the detailed monthly report. This matter was for information only.

Item No. 2 Sam Lahanis of Donohue and Associates informed the Committee that a requirement of the City's Wastewater Treatment Plant NPDES permit is the adoption of the proposed working schedule for relocation. The Committee was recommending the Council approve the schedule as presented and adopt a resolution to be sent to the Minnesota Pollution Control Agency.

Resolution No. 3 was introduced by Council Member Christianson, seconded by Council Member DeBlieck, read by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 3

WHEREAS, the City of Willmar is relocating the wastewater treatment plant to property located at 2944 - 75th Street SW, Willmar, MN. Per the NPDES permit with the Minnesota Pollution Control Agency per the Special Requirements Chapter 1, Section 7, Subsection 7.4, states:

"Timely upgrade or replacement of the existing wastewater treatment plant is important to assure continued compliance with existing discharge limits and to address downstream aggregate affects on the Minnesota River. To assure continued progress is being made, the Permittee will provide the following:"

4. "By October 1, 2005, the Permiitee will submit a City approved working schedule for the above-mentioned work."

WHEREAS, the City of Willmar desires that the relocation of the wastewater plant be completed; and

WHEREAS, a working schedule has been prepared by Donohue & Associates, Inc. Program Manager of Project for such participation;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Willmar to support the requirements of the MPCA, NPDES Permit, and approve the working schedule as presented; and

BE IT FURTHER RESOLVED, that said agreement be approved and that the Mayor and City Administrator be authorized to execute the same.

Dated this 15th day of August, 2005.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 3 The Committee reviewed an amended Ordinance prepared by City Attorney Ronning pertaining to the parking time limits for service trailers. The amendment only covers commercial service trailers and would exclude them from the two-hour limit if being used for commercial purposes. It was noted the ordinance pertains to unattached trailers.

The Committee was recommending the Council introduce the Ordinance as presented. Council Member Christianson offered a motion to introduce an Ordinance Amending Parking Time Limits for Service Trailers and to schedule a hearing on September 6, 2005. Council Member Gardner seconded the motion, which carried.

Item No. 4 The Committee reviewed a tabulation of bids for Project No. 0507. There was only one bid was received from Willmar Electric Service in the amount of \$128,181.04. The bid was within the engineer's estimate and staff recommended acceptance. The Committee was recommending the Council accept the bid of Willmar Electric Service and authorize the Mayor and City Administrator to enter into an agreement on behalf of the City.

Resolution No. 4 was introduced by Council Member Christianson, seconded by Council Member Fagerlie, read by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO. 4

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, that the bid of Willmar Electric Service, Inc. of Willmar, Minnesota for City Project No. 0507 is accepted, and be it further resolved that the Mayor and City Administrator of the City of Willmar are hereby authorized to enter into an agreement with the bidder for the terms and consideration of the contract in the amount of \$128,181.04.

Dated this 15th day of August, 2005.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 5 The Committee reviewed the final pay estimate for Project No. 0407, 2004 Street Lighting Improvements, to Willmar Municipal Utilities. The project is approved by the City Engineer and within the contract amount. The Committee was recommending the Council accept the project and issue final payment to Willmar Municipal Utilities.

Resolution No. 5 was introduced by Council Member Christianson, seconded by Council Member Dokken, read by Mayor Heitke, and approved on a roll call vote of Ayes 7, Noes 0.

RESOLUTION NO.5

ACCEPTING PROJECT AND AUTHORIZING FINAL PAYMENT

IMPROVEMENT: Project No. 0407 – 2004 Street Lighting Improvements
CONTRACTOR: Willmar Municipal Utilities
DATE OF CONTRACT: September 14, 2004
BEGIN WORK: September 17, 2004
COMPLETE WORK: June 15, 2005
APPROVE, CITY ENGINEER: August 10, 2005

BE IT RESOLVED by the City Council of the City of Willmar, Minnesota, that:

1. The said City of Willmar Project No. 0407 be herewith approved and accepted by the City of Willmar.
2. The following summary and final payment be approved:

ORIGINAL CONTRACT AMOUNT:	\$46,644.40
Change Orders (None)	\$0.00
FINAL NET CONTRACT AMOUNT, PROPOSED:	\$46,644.40
ACTUAL FINAL CONTRACT AMOUNT AS CONSTRUCTED:	\$46,517.26
Less Previous Payments	\$32,787.92
FINAL PAYMENT DUE CONTRACTOR:	\$13,729.34

Dated this 15th day of August, 2005.

/s/ Lester Heitke
MAYOR

/s/ Kevin Halliday
Attest: CITY CLERK

Item No. 6 Carol Foshaug and Scott Forboard appeared before the Committee to voice concerns of the use of 20th Avenue SW as an access point by contractors during the construction of Family Eye Center. Staff has contacted the contractors and advised them to use other means, and the street was patched by City personnel. This matter was for information only.

Item No. 7 Staff briefly updated the Committee on the construction of Willmar Avenue SE and advised them the County plans to have the east end open around the first week of September and then would also close the west end from 4th to 12th Streets. This matter was for information only.

The Public Works/Safety Committee Report for August 10, 2005, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member Christianson, seconded by Council Member Fagerlie, and carried.

The Community Development Committee Report for August 11, 2005, was presented to the Mayor and Council by Council Member DeBlieck. There were six items for Council consideration.

Item No. 1 The Committee reviewed an exterior maintenance ordinance appeal filed by Judy Smith, the owner of property at 808 Litchfield Avenue SW. Mrs. Smith had her residence cited

under the terms of the exterior maintenance ordinance. The issue with the home was that there were exterior repairs that needed to be made and it was in need of substantial repainting. The first step in the appeal process was to the Department Director, at which level the appeal was denied.

Gary Holt represented Judy Smith and explained how that Smith's are seeking funding to meet the exterior maintenance requirements. He agreed that the repairs and painting needed to be done, but asked for more time to complete the work.

Following discussion, the Committee was recommending to the Council that the compliance date for the exterior maintenance citations issued for 808 Litchfield Avenue SW be extended to November 15, 2005. Council Member DeBlieck moved to approve the recommendation of the Community Development Committee with Council Member Swenson seconding the motion, which carried.

Item No. 2 The Committee discussed a letter from the Airport Consultant, HNTB, regarding a request from the project architects for additional payment. It was the opinion of the architect that work they did to correct some issues with the terminal foundation entitled them to additional compensation. The amount of compensation being sought was slightly over \$10,000. It was the opinion of the consultants that the City should be obligated to the architects for the additional payment, but that the City could recover that money from the contractor under the terms of the construction contract. The Committee discussed the work of the architect and disputed the amount of work that was required to perform the corrective actions. The Committee also expressed the opinion that the work that was done should have been part of the usual construction process.

The Committee was recommending the Council deny the request for additional compensation as the Committee believed the work to be within the scope of the original contract for construction administration services. Council Member DeBlieck moved to approve the recommendation of the Community Development Committee with Council member Christianson seconding the motion, which carried.

Staff then presented an update on airport construction, specifically with regards to the terminal and FBO buildings, the main apron, and the paving of runways and taxiways.

Item No. 3 The Committee reviewed an e-mail from the Willmar Design Center regarding projects and project funding for 2005 and 2006. Among the projects discussed were: the removal of existing planters and the construction of new planters, placing new hanging baskets on the light poles, additional trash receptacles, new bike racks, banners on light poles, the addition of new trees, a possible KAT bus shelter, the development of a walking / biking path with signs in the central business district, and additional directional signage downtown. No action was taken by the Committee, but they expressed their willingness to consider some of these projects in the course of budget review. This matter was for information only.

Item No. 4 The Committee considered a request by the YMCA to close a portion of Minnesota Avenue south of the Paz Y Esperanza Church. The purpose of the street closing was to allow for a block party. It had been requested that a portion of Minnesota Avenue be closed between 1 and 5 p.m. on Saturday, August 27, 2005. The City Engineer has recommended that there be no tables, tents, etc. allowed in the street and that it be used only for pedestrian purposes, and that there be no damage done to the street from the closure. It was further recommended that traffic cones be used in place of barricades, and that the Police Department place the cones for the YMCA.

The Committee was recommending to the Council that the street closing be approved pending approval by the Fire Chief and Police Chief, and under the conditions offered by the City Engineer. Council Member DeBlieck moved to approve the recommendation of the Community Development Committee with Council Member Swenson seconding the motion, which carried.

Item No. 5 Staff updated the Committee on the status of a variety of projects including the airport, Mills auto dealership, the DBI plat, and bank projects. The Committee was also updated with regard to the status of the WRTC plat and anticipated re-use. This matter was for information only.

Item No. 6 Stacey Tiegels-Nelson appeared before the Committee to express concerns from the business community regarding the City's sign ordinance. Her main concern involved the ordinance regulations and permitting process for portable signs. Staff informed the Committee that there were a number of issues involving portable signs that required excessive enforcement action and were consuming too much staff time. For that reason, the matter is being taken to the Planning Commission for review and possible recommendations for ordinance changes.

The Community Development Committee Report for August 11, 2005, was approved as presented and ordered placed on file in the City Clerk's Office upon motion by Council Member DeBlieck, seconded by Council Member Fagerlie, and carried.

Planning and Development Services Director Peterson presented to the Mayor and Council a preliminary plat for Water View Business Park, a commercial plat consisting of 37 lots being developed by Duinick Brothers, Inc. It was noted the Planning Commission approved the preliminary plat with conditions that will be dealt with prior to the final plat including the 5th Street and 19th Avenue Southeast. Council Member Fagerlie moved to approve the Fourth Addition to Boulder Point preliminary plat with Council Member Dokken seconding the motion, which carried.

Planning and Development Services Director Peterson presented to the Mayor and Council a preliminary plat for Fourth Addition to Boulder Point, a 25-lot plat developed in two phases. The development will be a planned unit development common interest community with the majority being single family home development and a few twin homes. It was noted the Planning Commission approved the preliminary plat and conditional use permit. Council Member Fagerlie moved to approve the Fourth Addition to Boulder Point preliminary plat with Council Member Dokken seconding the motion, which carried.

Mayor Heitke presented to the Council for consideration the following appointments: Municipal Utilities Commission – Jerry Gesch, and Housing and Redevelopment Authority Board of Commissioners – Roger Klinghagen. Council Member DeBlieck moved to approve the appointments as presented with Council Member Dokken seconding the motion, which carried.

Announcements for Council Committee meeting dates were as follows: Finance, August 29; and Public Works/Safety, August 30, 2005.

There being no further business to come before the Council, the meeting adjourned at 8:55 p.m. upon motion by Council Member Fagerlie, seconded by Council Member DeBlieck, and carried.

Attest:

MAYOR

SECRETARY TO THE COUNCIL